

Denise Czekala
107 Hillcrest Road
Niantic, CT 06357

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

vs.

Denise Czekala, RN
Registered Nurse License No. R51832
Respondent.

CASE PETITION NO. 970429-010-029

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health (hereinafter the "Department") with a Statement of Charges and Motion for Summary Suspension dated May 5, 1997 (Department Exhibit A). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Denise Czekala (hereinafter the "Respondent") which would subject the Respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On May 7, 1997, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit A).

The Board issued a Notice of Hearing dated May 7, 1997, scheduling a hearing for May 21, 1997 (Department Exhibit A).

The Respondent requested the hearing scheduled for May 7, 1997 to be continued to September 17, 1997. The continuance was granted and the hearing was rescheduled. On September 10, 1997 the Respondent again requested a continuance of the hearing. The hearing was continued and took place on December 17, 1997, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

The Respondent was present during the hearing but was not represented by counsel. (Hearing Transcript, December 17, 1997, p. 3)

During the hearing the Respondent provided a verbal answer to the Statement of Charges. (Hearing Transcript, December 17, 1997, pp. 6-7)

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. The Respondent was issued Registered Nurse License Number R51832 on November 3, 1995. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit A-A1) (Answer: Hearing Transcript, December 17, 1997, p. 6)
2. Beginning on or about 1996, the Respondent was employed as a registered nurse at Greentree Manor, Waterford, Connecticut. (Department Exhibit A-B10)

3. From on or about the fall of 1996 to on or about April 12, 1997, while working as a registered nurse at Greentree Manor, the Respondent diverted, for her own personal use, the controlled substances Morphine and Hydrocodone. (Department Exhibit A-B) (Answer: Hearing Transcript, December 17, 1997, p. 6)
4. While working as a registered nurse at Greentree Manor the Respondent accomplished the diversion of Morphine and Hydrocodone by falsifying controlled substance administration records. The Respondent recorded on the controlled substance administration records that the medications she diverted for her own use had been administered to patients. (Department Exhibit A-B)
7. From on or about May 5, 1997, the Respondent has been receiving individual therapy for chemical dependency. In addition, the Respondent has been participating in Narcotics Anonymous. (Respondent's Exhibit 1) (Hearing Transcript, December 17, 1997, p. 20)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Denise Czekala held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177(a), and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

Paragraph 2 of the Statement of Charges alleges that beginning in approximately the fall of 1996 through April 1997, while working as a registered nurse at Greentree Manor, Waterford, Connecticut, the Respondent:

- a. diverted morphine and hydrocodone;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records.

The Respondent admits these charges. (Hearing Transcript, December 17, 1997, pp. 6-7)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in performing usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals... (6) fraud or material deception in the course of professional services or activities...."

Based on its findings, the Board concludes that the Respondent's conduct as alleged in Paragraph 2 of the Statement of Charges is proven. The Board further concludes that said conduct fails to conform to the accepted standards of the nursing profession and constitutes violations of the General Statutes of Connecticut §20-99(b)(2), (5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

ORDER

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That the Summary Suspension of the Respondent's registered nurse license, No. R51832, ordered on May 7, 1997, is vacated on the effective date of this Memorandum of Decision.

2. That for Paragraph 2 of the Statement of Charges, the Respondent's registered nurse license, No. R51832, is placed on probation for a period of four (4) years.
3. If any of the following conditions of probation are not met, the Respondent's registered nurse license may be subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.
 - A. During the period of probation the Board shall pre-approve the Respondent's employment or change of employment within the nursing profession.
 - B. The Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within fifteen (15) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
 - C. The Respondent shall not administer, count or have access to controlled substances, or have responsibility for such activities in the course of nursing duties during the first year of returning to the practice of nursing during the probationary period.
 - D. If employed as a nurse, the Respondent shall cause monthly employer reports to be submitted to the Board by her immediate supervisor for the entire probationary period. Employer reports shall commence with the report due on the first business day of the month following employment as a nurse.
 - E. The employer reports cited in Paragraph D above shall include documentation of the Respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph P below.

- F. Should the Respondent's employment as a nurse be involuntarily terminated, the Respondent and/or her employer shall notify the Board, within seventy-two (72) hours, of such termination.
- G. At her expense, the Respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- H. The Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within fifteen (15) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- I. The Respondent shall cause monthly evaluation reports to be submitted to the Board by her therapist during the entire probationary period. Therapist reports are due commencing with the report due on the first business day of May 1998.
- J. The therapist reports cited in Paragraph I above shall include documentation of dates of treatment, and an evaluation of the Respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph P below.
- K. At her expense, the Respondent shall be responsible for submitting to random chain of custody urine and/or blood screens for alcohol and drugs for the entire probationary period, as ordered by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board of Examiners for Nursing to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. The Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.

There must be at least one (1) such random alcohol/drug screen weekly during the first and second years of the probationary period and at least two (2) random alcohol/drug screens monthly during the third and fourth years of the probationary period. In addition, during the first six months of the Respondent's return to practice there must be at least one (1) random alcohol/drug screen weekly.

Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

Random alcohol/drug screens must include testing for the following substances:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cannabinoids (THC Metabolites)
- Cocaine
- Meperidine (Demerol)
- Methadone
- Methaqualone
- Opiates (Metabolites)
- Phencyclidine (PCP)
- Propoxyphene
- Ethanol (alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph P below, by the testing laboratory or the Respondent's therapist or personal physician.

- L. The Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. The Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

- M. The Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine. For that reason, any food substance containing poppy seeds should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine, the ingestion of poppy seeds shall not constitute a defense to such positive screen.
- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- O. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- P. All correspondence and reports are to be addressed to:

**DEPARTMENT OF PUBLIC HEALTH
DIVISION OF HEALTH SYSTEMS REGULATION
BOARD OF EXAMINERS FOR NURSING**
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford CT 06134-0308

- 4. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, will constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that the Respondent has violated this Order will subject the Respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to the Respondent's address of record (most current address reported to the Licensure and Registration Section of the Department of Public Health or the Board of Examiners for Nursing).

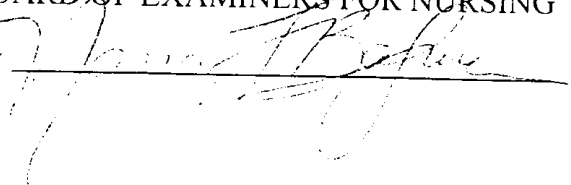
5. This Memorandum of Decision becomes effective, and the four (4) year probation of the Respondent's registered nurse license shall commence, on April 15, 1998.

The Board of Examiners for Nursing hereby informs the Respondent, Denise Czekala, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 1st day of April 1998.

BOARD OF EXAMINERS FOR NURSING

By



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